



Substitute Senate Bill No. 703

Public Act No. 07-180

AN ACT CONCERNING FIRE SAFE CIGARETTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2008*) As used in sections 1 to 6, inclusive, sections 9 and 10 of this act, and sections 12-302 and 12-303 of the general statutes, as amended by this act:

(1) "Cigarette manufacturer's license" means a cigarette manufacturer's license issued pursuant to section 12-285b of the general statutes;

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other substance or material except tobacco;

(3) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors and equipment-related problems do not affect the results of the testing;

(4) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall

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ninety-five per cent of the time;

(5) "Brand family" has the same meaning as provided in section 4-28k of the general statutes;

(6) "Holder" means the holder of a cigarette manufacturer's license; and

(7) "Stamper" means a person licensed as a cigarette distributor under chapter 214 of the general statutes and authorized to purchase unstamped packages of cigarettes and required to affix Connecticut cigarette tax stamps to such packages before such packages are transferred out of such person's possession, unless such packages are transferred to another stamper.

Sec. 2. (NEW) (*Effective July 1, 2008*) (a) On and after July 1, 2008, no holder of a cigarette manufacturer's license shall sell cigarettes, or offer cigarettes for sale, to consumers within this state, whether directly or through a distributor, dealer, or similar intermediary or intermediaries, unless such cigarettes comply with the requirements of subsection (b) of this section.

(b) Cigarettes to be sold, or offered for sale, to consumers within this state, whether directly or through a distributor, dealer, or similar intermediary or intermediaries, shall: (1) Have been tested in accordance with the test method specified in section 3 of this act and meet the performance standard specified in section 3 of this act; (2) have been listed in a written certification submitted to the Office of the State Fire Marshal in accordance with section 4 of this act; and (3) be in packages marked in accordance with section 6 of this act.

(c) If any holder violates the provisions of subsection (a) of this section, the Commissioner of Revenue Services may suspend or revoke the holder's cigarette manufacturer's license in the same manner as provided in section 12-295 of the general statutes for the suspension or

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revocation of the license of a dealer or distributor.

(d) Nothing in this section shall be construed to prohibit any holder or any stamper from selling or offering for sale cigarettes not meeting the requirements of subsection (b) of this section if such cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

(e) A wholesale or retail dealer may sell his or her existing inventory of cigarettes on or after July 1, 2008, if such dealer can establish that: (1) Connecticut cigarette tax stamps were affixed to such cigarettes prior to July 1, 2008, and (2) such cigarettes were purchased prior to July 1, 2008, in a quantity comparable to the cigarettes purchased during the same period of the prior year.

(f) Nothing in sections 1 to 6, inclusive, of this act shall be construed to prohibit a holder from distributing cigarettes in accordance with the provisions of section 12-314a of the general statutes for the purpose of consumer testing, after obtaining the authorization of the Commissioner of Revenue Services. For the purposes of this subsection, "consumer testing" means an assessment of cigarettes that is conducted by or under the control of a holder for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment, and conducting such assessment in a controlled setting where the cigarettes are either consumed on-site or returned to the testing administrators at the conclusion of the testing.

Sec. 3. (NEW) (*Effective July 1, 2008*) (a) All testing by or on behalf of a holder of a cigarette manufacturer's license or by or on behalf of the Office of the State Fire Marshal to determine a cigarette's compliance with the performance standard specified in this section shall be conducted in accordance with the following requirements:

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(1) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials or "ASTM" standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes" or a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding by the State Fire Marshal that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187-04 and the performance standard in subdivision (3) of this subsection;

(2) Testing shall be conducted on ten layers of filter paper;

(3) Not more than twenty-five per cent of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty replicate tests shall comprise a complete test trial for each cigarette tested;

(4) The performance standard required by this section shall only be applied to a complete test trial;

(5) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO or IEC 17025 of the International Organization for Standardization or such other comparable accreditation standard as the Office of the State Fire Marshal may require by regulation;

(6) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19. Such program ensures that the testing repeatability remains within the required repeatability value set forth in this subdivision for all test

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trials used to certify cigarettes in accordance with this section and section 4 of this act; and

(7) No additional testing under this section is required if cigarettes are tested consistent with this section for any other purpose.

(b) Each cigarette that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have not less than two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located not less than fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be not less than two bands fully located at least fifteen millimeters from the lighting end and ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(c) A holder of a cigarette manufacturer's license that manufactures a cigarette that the State Fire Marshal determines cannot be tested in accordance with the test method prescribed in subdivision (1) of subsection (a) of this section may propose an alternate test method and performance standard for the cigarette to the State Fire Marshal. Upon approval and a determination by the State Fire Marshal that the performance standard proposed by the holder is equivalent to the performance standard prescribed in subdivision (3) of subsection (a) of this section, the holder may employ such test method and performance standard to certify such cigarette pursuant to section 4 of this act. If the State Fire Marshal determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this section, and the State Fire Marshal finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular

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cigarette proposed by a holder as meeting the reduced cigarette ignition propensity standards of that state's law or regulations under a legal provision comparable to this section, then the State Fire Marshal shall authorize that holder to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the State Fire Marshal has a reasonable basis for deciding that the alternative test should not be accepted under said sections. All other applicable requirements of this section shall apply to the holder.

(d) Each holder of a cigarette manufacturer's license shall maintain copies of the reports of all tests conducted on all cigarettes with respect to which such holder has submitted written certification in accordance with the provisions of section 4 of this act. Such holder shall provide copies of the reports available to the Office of the State Fire Marshal and to the office of the Attorney General upon written request. Any holder that fails to provide such copies not later than sixty days after receiving a written request shall be subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that the holder does not make such copies available.

(e) The State Fire Marshal shall review the effectiveness of the implementation of this section and shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to public safety, in accordance with section 11-4a of the general statutes, containing the State Fire Marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this section. Such report shall be submitted not later than June 30, 2011, and every three years thereafter.

Sec. 4. (NEW) (*Effective July 1, 2008*) (a) Each holder of a cigarette manufacturer's license shall submit to the Office of the State Fire Marshal a written certification every three years attesting that: (1) Each cigarette listed in the certification has been tested in accordance with section 3 of this act; and (2) each cigarette listed in the certification

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meets the performance standard set forth in section 3 of this act.

(b) The certification shall list the following information for each cigarette listed: (1) Brand or trade name on the package; (2) style, such as light or ultra light; (3) length in millimeters; (4) circumference in millimeters; (5) flavor, if applicable; (6) filter or nonfilter; (7) package description, such as a soft package or box; (8) marking pursuant to section 6 of this act; (9) the name, address and telephone number of the laboratory, if different than the holder that conducted the test; and (10) the date that the testing occurred.

(c) For each brand family listed in a certification, a holder shall pay to the State Fire Marshal a fee of two hundred fifty dollars. The State Fire Marshal may annually adjust such fee, in regulations adopted in accordance with chapter 54 of the general statutes, to ensure that such fee defrays the actual costs of the processing, testing, enforcement and oversight activities of the State Fire Marshal in accordance with sections 1 to 6, inclusive, of this act.

(d) If a holder has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by section 3 of this act, the holder shall not sell that cigarette, or offer that cigarette for sale, to consumers within this state, whether directly or through a distributor, dealer or similar intermediary or intermediaries, until the holder (1) retests the cigarette, in accordance with the testing standards set forth in section 3 of this act, (2) maintains records of such retesting as required by section 3 of this act, and (3) finds that the cigarette meets the performance standards set forth in section 3 of this act.

Sec. 5. (NEW) (*Effective July 1, 2008*) (a) Not later than July 1, 2008, the Office of the State Fire Marshal shall develop and make available for public inspection, on its web site and in such other forms as the

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State Fire Marshal deems appropriate, a Connecticut Fire Safe Cigarette Directory listing of all holders that have provided current certifications conforming to the requirements of section 4 of this act and all cigarettes that are listed in such certifications. The State Fire Marshal shall update the directory as necessary in order to correct mistakes and to add or remove a holder or cigarette to keep the directory current and in conformity with the requirements of sections 1 to 6, inclusive, of this act.

(b) The State Fire Marshal shall not include or retain in such directory the cigarette of any holder if the holder: (1) Has failed to provide the required certification, (2) has failed to provide copies of reports, as required by subsection (d) of section 3 of this act, and more than sixty days have elapsed since the holder received the written request therefor, or (3) has provided a certification that the State Fire Marshal determines is not in compliance with the provisions of section 4 of this act, unless such violation has been remedied to the satisfaction of the State Fire Marshal.

(c) Any holder aggrieved by a determination by the State Fire Marshal not to include a cigarette in the directory maintained pursuant to this section or to remove such cigarette from the directory may apply, not later than thirty days after such determination, to the superior court for the judicial district of Hartford, which court may grant appropriate relief.

(d) If the State Fire Marshal determines that a holder of a cigarette manufacturer's license has violated a provision of this section or section 4 of this act, the Attorney General, upon referral from the State Fire Marshal, may bring a civil action in the superior court for the judicial district of Hartford to recover a civil penalty of not more than ten thousand dollars per violation and such injunctive and equitable relief as the court deems appropriate.

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Sec. 6. (NEW) (*Effective July 1, 2008*) No holder of a cigarette manufacturer's license shall sell cigarettes, or offer to sell cigarettes, to consumers within this state, whether directly or through a distributor, dealer or similar intermediary or intermediaries, unless the holder has placed on each individual package of such cigarettes the letters "FSC", which signifies Fire Standards Compliant. Such letters shall appear in eight-point type and be permanently printed, stamped, engraved or embossed on the package at or near the UPC Code, if such code is present.

Sec. 7. Subsection (b) of section 12-302 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(b) No distributor shall affix, or cause to be affixed, to a package of cigarettes sold or distributed by such distributor, stamps, if the package (1) is not labeled in conformity with the requirements of the federal Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC 1331 et seq., or any other federal requirement for the placement of labels, warnings and other information, applicable to packages of cigarettes that are intended to be sold within the United States; (2) bears any label or notice prescribed by the United States Department of Treasury to identify cigarettes intended for export and exempt from tax by the United States pursuant to 26 USC 5704(b), including "For export only", "U.S. Tax-exempt", "For use outside U.S." or similar wording indicating that the manufacturer did not intend that the product be sold within the United States, including any notice or label described in 27 CFR 290.185; (3) has been imported into the United States after January 1, 2000, in violation of 26 USC 5754 or regulations adopted thereunder; (4) in any way violates federal trademark or copyright law or if all federal taxes due have not been paid on the cigarettes; (5) has been modified or altered by a person other than the manufacturer or person specifically authorized by the manufacturer,

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including modification or alteration by the placement of a sticker or label to cover information, including the wording, labels or warnings described in subdivision (1) or (2) of this subsection, on the package; [or (6) has been manufactured or sold by a tobacco product manufacturer that is in violation of subdivision (2) of subsection (a) of section 4-28i or section 4-28j and the distributor has been notified by the commissioner of such violation. Notwithstanding the provisions of section 12-15, the commissioner may disclose to the public the name of any person who has violated the provisions of section 4-28i or 4-28j] (6) is of a brand family or of a tobacco product manufacturer not included in the Connecticut Tobacco Directory maintained by the Commissioner of Revenue Services pursuant to section 4-28m; or (7) is of cigarettes not included in the Connecticut Fire Safe Cigarette Directory maintained by the State Fire Marshal pursuant to section 5 of this act.

Sec. 8. Subsection (b) of section 12-303 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(b) No dealer shall affix, or cause to be affixed, to a package of cigarettes sold or distributed by such dealer, stamps, if the package (1) is not labeled in conformity with the requirements of the federal Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC 1331 et seq., or any other federal requirement for the placement of labels, warnings and other information, applicable to packages of cigarettes that are intended to be sold within the United States; (2) bears any label or notice prescribed by the United States Department of Treasury to identify cigarettes intended for export and exempt from tax by the United States pursuant to 26 USC 5704(b), including "For export only", "U.S. Tax-exempt", "For use outside U.S." or similar wording indicating that the manufacturer did not intend that the product be sold within the United States, including any notice or label described in 27 CFR

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290.185; (3) has been imported into the United States after January 1, 2000, in violation of 26 USC 5754 or regulations adopted thereunder; (4) in any way violates federal trademark or copyright law or if all federal taxes due have not been paid on the cigarettes; (5) has been modified or altered by a person other than the manufacturer or person specifically authorized by the manufacturer, including modification or alteration by the placement of a sticker or label to cover information, including the wording, labels or warnings described in subdivision (1) or (2) of this subsection, on the package; [or (6) has been manufactured or sold by a tobacco product manufacturer that is in violation of subdivision (2) of subsection (a) of section 4-28i or section 4-28j and the dealer has been notified by the commissioner of such violation. Notwithstanding the provisions of section 12-15, the commissioner may disclose to the public the name of any person who has violated the provisions of section 4-28i or 4-28j] (6) is of a brand family or of a tobacco product manufacturer not included in the Connecticut Tobacco Directory maintained by the Commissioner of Revenue Services pursuant to section 4-28m; or (7) is of cigarettes not included in the Connecticut Fire Safe Cigarette Directory maintained by the State Fire Marshal pursuant to section 5 of this act.

Sec. 9. (NEW) (*Effective July 1, 2008*) The State Fire Marshal shall implement sections 1 to 6, inclusive, of this act, in accordance with the New York fire safety standards, as amended, as said standards are embodied in New York Executive Law, Section 156-c, as amended and Part 429 of Title 19 New York Codes, Rules, and Regulations, as amended. The State Fire Marshal may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of sections 3 to 5, inclusive, of this act, and any such regulations shall be consistent with said New York fire safety standards.

Sec. 10. (NEW) (*Effective July 1, 2008*) There is established, within the

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General Fund, a separate, nonlapsing account to be known as the fire safety standard and firefighter protection act enforcement account. The account shall contain all certification fees submitted by holders in accordance with section 4 of this act, any civil penalties imposed in accordance with subsection (d) of section 3 of this act or subsection (d) of section 5 of this act, and any other moneys required by law to be deposited in the account. The proceeds of the account shall be used by the State Fire Marshal solely to fund the processing, testing and administrative activities specified in sections 3, 4 and 5 of this act.

Approved July 10, 2007